

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

December 16, 2010

- I. **CALL TO ORDER** – The meeting was called to order at 1:31 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Carla Blanton; Patrick Brewer; Marie Copeland; Mike Cravens; Ed Holmes; Mike Owens; Carolyn Richardson; Lynn Roche-Phillips (arrived at 1:35 p.m.); and Bill Wilson. Absent were Eunice Beatty and Derek Paulsen.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; Chris Taylor; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Bob Carpenter, Division of Building Inspection; Hillard Newman, Division of Engineering; and Firefighter Allen Case and Captain Charles Bowen, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Wilson, seconded by Mr. Brewer, and carried 8-0 (Beatty, Paulsen, and Roche-Phillips absent) to approve the minutes of the November 18, 2010, meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **IOTA NU HOUSE CORPORATION OF ALPHA PHI INTERNATIONAL FRATERNITY, INC., ZONING MAP AMENDMENT & LYNTHURST PLACE BLOCK C, LOTS 4 & 5 ZONING DEVELOPMENT PLAN**

- a. MARCV 2010-14: IOTA NU HOUSE CORPORATION OF ALPHA PHI INTERNATIONAL FRATERNITY, INC. (1/27/11)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.30 net (0.35 gross) acre, for property located 253 & 255 East Maxwell Street. A conditional use permit and dimensional variances have also been requested in conjunction with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 1) recommends Downtown Master Plan (DTMP) future land use for the subject property. The petitioner proposes the rezoning in order to construct a sorority house, which is a conditional use in the High Rise Apartment (R-5) zone.

The Zoning Committee Recommended: **Disapproval of the rezoning request**, for the reasons provided by staff.

The Staff Recommends: **Disapproval**, for the following reasons:

1. The requested High Rise Apartment (R-5) zone is not in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The subject property is recommended for Downtown Master Plan (DTMP) land use. The 2007 Comprehensive Plan states that the Planning Commission should consider the recommendations of the 2001 Comprehensive Plan as well as other relevant current information to guide redevelopment decisions. The land use recommendation carried forward from the 2001 Plan is for High Density Residential, defined as up to 25 dwelling units per net acre. The proposed sorority would have an equivalent density of 40 dwelling units per acre (with 49 occupants).
 - b. The DTMP further recommends for the College Town precinct that alterations and demolitions to existing buildings be minimized. The applicant's proposal is to demolish two existing residential dwellings; but neither of these structures has a history of Code Enforcement violations, nor do these properties appear to be in a state of disrepair.
 - c. The DTMP further recommends for the College Town precinct that, "Important to the successful development of the area is the retention of old and historic buildings and the development of housing and retail space that not only increases density, but also responds to the surrounding architectural character." The proposed structure would be out of scale with the existing surrounding buildings within this block face, which is out of character with the area.
2. The existing R-4 zoning is appropriate, and the proposed R-5 zoning is inappropriate, for the subject properties because:
 - a. The properties are completely surrounded by existing R-4 zoning.
 - b. The existing duplex and 4-plex on these two properties yield a residential density of 20 dwelling units per acre, as recommended in the Land Use Element of the 2001 and 2007 Comprehensive Plans.
 - c. Approval of the R-5 zoning encourages the demolition of the existing residential structures on 253 and 255 E. Maxwell Street, which is in disagreement with the DTMP. Retention of the existing buildings would further the recommendations of the DTMP.
3. There has not been a major unanticipated change of an economic, physical, or social nature within the area involved, which was not anticipated by the Comprehensive Plan, that might have changed the basic character of the area.

b. **REQUESTED CONDITIONAL USE AND DIMENSIONAL VARIANCES**

REQUESTED CONDITIONAL USE

1. Sorority House

* - Denotes date by which Commission must either approve or disapprove request.

REQUESTED VARIANCES

1. To reduce the minimum side yard from 10' to 4'
2. To increase the maximum building height from 16' to 40'
3. To reduce the minimum open space from 20% to 17%

The Zoning Committee Recommended: **Disapproval of the requested conditional use and variances**, for the reasons provided by staff.

The Staff Recommends: **Disapproval of the requested conditional use**, for the following reason:

- a. The proposed off-street parking is less than the minimum requirement for the proposed conditional use; and, more realistically, is probably insufficient for a 49-resident sorority house. The availability of off-street parking in this neighborhood is limited; therefore, so few parking spaces for a sorority house of this size could exacerbate this problem, and result in a detrimental impact to the surrounding neighborhood.

The Staff Recommends: **Disapproval of the requested variances**, for the following reasons:

- a. The proposed variances to the side yard setback, building height, and open space requirements do not appear to be justified. No special circumstances or characteristics have been identified for the subject properties that do not also generally apply to other residential property in this general vicinity.
 - b. Granting the requested variances would result in construction that would exceed the existing limitations in effect for nearby residential buildings. It would also result in a sorority house taller than the Kappa Kappa Gamma and Kappa Alpha houses a short distance to the northwest of this location.
 - c. In viewing all of the dwellings in the block bounded by East Maxwell Street, Rose Street, Kalmia Avenue and Stone Avenue, the proposed sorority house would be out of scale with the existing structures within this block, as it would not only be taller than any other, but also a foot closer to the side property line than is currently allowable for any other structure.
 - d. Strict application of these R-5 zoning restrictions (should the rezoning be granted by the Urban County Council) would not deprive the current or future property owners from a reasonable use of their property. Neither structure currently exceeds the maximum floor area ratio of the existing R-4 zone; and provided that off-street parking requirements can be met, could potentially be expanded in some fashion.
- c. ZDP 2010-80: LYNDHURST PLACE, BLOCK C, LOTS 4 & 5 (1/27/11)* - located at 253 – 255 East Maxwell Street.
(Vision Engineering)

The Subdivision Committee Recommended: **Referral**. There were questions regarding the parking layout, landscaping and building code compliance.

The Staff Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm sewers, sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Provided the Planning Commission grants the requested variances.
8. Denote height of proposed building.
9. Denote proposed open space.
10. Denote storm water detention off site.
11. Delete note #8.
12. Denote proposed and/or existing easements.
13. Addition of access drive dimensions.
14. Discuss 48" Pin Oak protection.
15. Discuss open space compliance.
16. Discuss transit stop parking reduction (300') and parking compliance.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that he had been retained two days prior to the public hearing to represent the petitioner. Upon reviewing the application and other information, Mr. Simpson recommended to his client that they pursue a request for a one-month postponement. The applicant intends to acquire additional property and amend their application. Mr. Simpson said that he notified the staff of the petitioner's intention to postpone as soon as he was retained, and asked that the staff contact any interested parties to inform them of that intention. Mr. Simpson corresponded with the president of the Aylesford Neighborhood Association,

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and noted that the petitioner proposes to meet with their Board, as well as the full neighborhood association, prior to their presentation of their amended application to the Planning Commission. Mr. Simpson requested a one-month postponement of this item.

Citizen Comment: There were no citizens present to comment on this request for postponement.

Action: A motion was made by Mr. Brewer, seconded by Mr. Wilson, and carried 9-0 (Beatty and Paulsen absent) to postpone MARCV 2010-14 and ZDP 2010-80 to the January 27, 2011, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, December 2, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland, Eunice Beatty and Derek Paulsen. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Saltee, Tom Martin, Cheryl Gallt, Chris Taylor, Denise Bullock and Jimmy Emmons, as well as Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Rochelle Boland, Law Department; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

A. DISCUSSION ITEMS – Following requests for postponement and withdrawal, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. FINAL SUBDIVISION PLANS & DEVELOPMENT PLAN

- a. PLAN 2010-100F: NDC PROPERTY (WELLINGTON), UNIT 1-B, SECTION 2, LOTS 19 & 20 (AMD) (12/9/10)* - located at 209 Ruccio Way. (Council District 9) **(Foster-Roland, Inc.)**

Note: The Planning Commission postponed this plan at its October 14, 2010, November 11, 2010, and December 9, 2010, meetings. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: Postponement. There are questions regarding a potential conflict with the property line proposed and the approved development plan.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and required street tree information.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection area(s) and tree canopy information.
 6. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote: This property shall be developed in accordance with the approved final development plan.
 8. Denote all private utility providers.
 9. Denote reciprocal parking and access, per approved development plan.
 10. Denote property owner and developer's information.
 11. Denote the agreed judgment for the property and its date.
 12. Addition of access maintenance note per Article 5-4(g) of the Land Subdivision Regulations.
 13. Addition of location of control monuments required by Article 6 of the Land Subdivision Regulations.
 14. Correct land surveyor and engineer's certification.
 15. Addition of adjoining property (dashed lines) information for 225 Ruccio Way.
 16. Increase text size for plan notes.
 17. Discuss property line conflict with the approved final development plan.
- b. DP 2010-79: NDC PROPERTY, UNIT 1-B, SEC. 2, LOTS 19, 20, 20A & 20B (AMD) (1/29/11)* - located at 260-280 Meijer Way and 209-213 Ruccio Way. (Council District 9) **(Foster-Roland, Inc.)**

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Note: The Planning Commission postponed this plan at its December 9, 2010, meeting. The purpose of this amendment is to depict the proposed development of the lots.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm & sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffer.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote reciprocal parking and access.
10. Denote building dimensions on lots 20 and 20A.
11. Document release of street light easement prior to plan certification.
12. Denote typical parking space dimensions.
13. Denote access and aisle dimensions.
14. Delineate area of amendment.
15. Denote location and number of trees for required tree canopy in area of amendment.
16. Addition of agreed judgment note.
17. Denote internal sidewalks on lots 19 & 20.
18. Addition of 2' contour lines.
19. Revise site statistics for lots 19-20B.
20. Resolve extent of pavement between lots 19 & 20.
21. Remove proposed new access to lot 19.

Note: The applicant has requested a waiver to Article 4-7 of the Land Subdivision Regulations concerning the bonding of public improvements and recordation of this plat prior to completion of the improvements.

Staff Presentation: Mr. Martin began the staff's presentation by noting that he would be presenting this final record plat and the associated development plan together, in order to aid the Commission members in understanding how the property proposed for subdivision fits into the overall development of this area. He referred to renderings of the plat and the development plan, briefly orienting the Commission to the location of the subject property at the corner of Ruccio Way and Reynolds Road.

Mr. Martin stated that the applicant is proposing to subdivide the remainder of the subject property into two lots. One of the lots is proposed to be one acre in size, and the other would be 3.9 acres in size. The development plan includes the entire front portion of the property, including the parcel proposed for subdivision by the final record plat. The area proposed for amendment includes three office buildings, each approximately 2,600 square feet in size, with an associated accessory parking garage and circulation areas. Mr. Martin noted the location of the three approved access points for the site, and the portion of the property where the Commission approved an assisted-living facility at their meeting last month.

Mr. Martin said that the final record plat for the subject property was filed several months ago, and was recommended for postponement. At that time, there was a conflict between the proposed lotting pattern and the approved development plan for the property. The amended plan included several inappropriately placed lot lines and easements, so the staff recommended postponement until such time as the applicant could amend the development plan. Mr. Martin said that the development plan was then postponed at the Commission's meeting prior to this meeting, due to some concerns about the location of a new lot line in relation to the proposed traffic circulation. The staff was also concerned about the excessive width of an access aisle. The revised plan, which was received by the staff one day prior to this meeting, now depicts that aisle at 24 feet, which the staff believed was much more appropriate than the previous 40-foot aisle included on the plan.

Mr. Martin stated that, when the plan was initially filed, there were also some concerns about the location of an access point that had been shifted from what was included on a previous plan, and was now conflicting with another proposed access. The previously-approved access had been located in order to line up with a similar access easement on the Meijer property, which the staff believed was appropriate. With the submission of the revised plan, the applicant adjusted that access easement back to the location included on the original development plan, which resolved the spacing conflicts for the access points. Mr. Martin stated that, with the resolution of those issues, the staff is now able to recommend approval of the final record plat, subject to the first 16 conditions as listed on the agenda, and deleting #17. The staff is also recommending approval of the development plan, subject to the first 19 conditions as listed on the agenda, deleting #20 and 21.

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Commission Questions: Ms. Roche-Phillips asked why the applicant is proposing to subdivide the lot included on the final record plat, when no development is proposed on the larger parcel. Mr. Martin responded that the applicant intends to sell the smaller parcel. Ms. Roche-Phillips stated that it appeared that the Commission was reviewing the development as a whole, rather than as two lots. Mr. Martin answered that the proposed development was designated as a Professional Office park, and noted that the entire area is integrated as one ten-acre development with regard to parking and access. In order to subdivide the subject parcel into two lots, the applicant was required to amend the entire development plan.

Mr. Owens asked, with regard to the renderings for the subject property, what the green rectangular area represented. Mr. Martin answered that that portion of the property is proposed for future development, and noted that the applicant would be required to submit a development plan for that parcel prior to any construction. On the previous plan, the applicant denoted a bank of buildings on the portion of the property proposed for future development, which caused many of the conflicts that were then resolved via the submission of the revised plan. Mr. Owens asked if the subject parcel has its own access. Mr. Martin answered that access is established to every parcel included on the development plan, with reciprocal parking required.

Ms. Copeland asked if it would be prudent to include a condition on the plan to prevent the parcel at the corner of Reynolds Road and Ruccio Way from becoming "land-locked." Mr. Martin referred to the rendered development plan and indicated the locations of the access points. He noted that the overall plan is governed by reciprocal parking and access agreements.

Petitioner Representation: Myke Robbins, Foster-Roland, Inc., was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations and with the conditions for approval of this development plan and final record plat.

Final Record Plat Action: A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Beatty and Paulsen absent) to approve PLAN 2010-100F, subject to the first 16 conditions as listed on the agenda, deleting #17.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Beatty and Paulsen absent) to approve DP 2010-79, subject to the first 19 conditions as listed on the agenda, deleting #20 and 21.

- c. PLAN 2010-106F: TUSCANY, UNIT 6, SECTION 1, LOTS 1 & 2 (3/1/11)* - located at 2599 Old Rosebud Road (a portion of). (Council District 6) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 14, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of property owner and developer's information.
9. Provided that certification of preliminary subdivision plan must occur prior to certification of this record plat.
10. Denote the location and number of trees to be planted in order to meet the tree canopy requirements.
11. Delete note #12.

Staff Presentation: Mr. Martin presented the final record plat, briefly orienting the Commission to the location of the subject property to the west of the existing Tuscan residential development. He noted that the applicant proposes to subdivide one lot into two lots. The plat includes those two lots, as well as the proposed extension of Old Rosebud Road, which would be dedicated with the approval of this plat. Mr. Martin displayed a rendering of the recently approved preliminary subdivision plan as well. He stated that the subject final record plat was also recently approved, but the applicant has requested a waiver to the Land Subdivision Regulations, which requires the consideration and approval of the Planning Commission.

Mr. Martin referred to the rendered copy of the plat, and noted the location of the proposed 3.25-acre lot, as well as the proposed location of the extension of Flying Ebony Drive, which will intersect Old Rosebud Road. He said that the applicant requested a waiver in order to bond the public improvements associated with the proposed development. The applicant proposes to combine the site improvements on both lots and the required public improvements into one job, to be performed by one contractor. Normally, public infrastructure is constructed and dedicated at the

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time of the recording of a final record plat. In this case, however, the Planning Commission approved a development plan for a 62-unit elderly housing facility and associated parking. Additionally, the 10-acre tract included on the final record plat was just approved by the Board of Adjustment for the location of a 130-bed nursing home (skilled care) and assisted living facility, with a 30-bed Alzheimer's unit.

Mr. Martin stated that the applicant contends that the "innovative design" element of the Land Subdivision Regulations should apply to this waiver request, due to the single ownership of the property. By combining the work typically done by several contractors, the applicant is attempting to alleviate some of the issues that often accompany a project of this scale. In addition, by coordinating the infrastructure improvements, the applicant will be able to record the lots more quickly. Because the assisted living facility will be partially funded by the Kentucky Housing Corporation, it is essential that the applicant be able to record the lots according to the required timetable. Mr. Martin said that the applicant also contends that the unusually active winter weather so early in the season constitutes a hardship, due to the presence of clay soils that become heavily compacted in the cold and make it difficult to construct the most suitable sub-base for the development.

Mr. Martin stated that, should the Commission choose to approve this waiver request, the applicant will begin the site work for the two lots, as well as the required public improvements, in the spring. Following the staff's review of the request and meeting with the applicant and the staff of the Division of Engineering, the staff agrees with the applicant's reasoning for requesting the waiver, and is recommending approval of the waiver request. That recommendation of approval is made subject to the following requirement:

1. Denote: No Certificate of Occupancy shall be issued for lots 1 & 2 until the public improvements are constructed in compliance with the Engineering Manuals and accepted by the Division of Engineering.

Mr. Martin noted that the full scope of the bonded improvements is not known at this time, but the staff is aware that the applicant is proposing to bond the storm and sanitary sewers, and roadway improvements.

Commission Question: Mr. Holmes asked if the applicant's reference to the clay soil indicates that type of clay is particular to the subject property. He also asked if that argument could effectively be used by all applicants, since clay soil is very common in this region. Mr. Martin answered that the type of clay within the soil varies, and some clays are more susceptible to freezing and thawing than others. He noted that, although the staff agrees that the soil composition on the subject property constitutes a hardship, they believe that the key to this waiver request is the innovative approach to the construction process.

Petitioner Representation: Rory Kahly, EA Partners, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, including the condition for approval of the waiver request.

Commission Question: Ms. Copeland asked for an explanation of the issue with the clay soil. Tom Hatfield, engineer, stated that the many of the clays in Kentucky soils are fatty clays, which do not lend themselves to being worked and compacted during cold weather. Ms. Copeland asked if that same type of clay is present in nearly all of the soil in this region. Mr. Hatfield responded that it is typical throughout central Kentucky. Ms. Copeland said that it would not be accurate, then, to state that this a type of clay is limited only to the subject property. Mr. Hatfield agreed.

Action: A motion was made by Mr. Holmes, seconded by Mr. Cravens, and carried 9-0 (Beatty and Paulsen absent) to approve PLAN 2010-106F, subject to the 11 conditions as listed on the agenda, and the one condition as listed in the waiver report.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, December 2, 2010, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Ed Holmes, Lynn Roche-Phillips, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)

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- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. ROOKER PROPERTIES, LLC, ZONING MAP AMENDMENT & BLUEGRASS EXECUTIVE PARK, UNIT 1-B, BLOCK F, LOTS 2 & 7 ZONING DEVELOPMENT PLAN

- a. MAR 2010-13: ROOKER PROPERTIES, LLC (1/27/11)* - petition for a zone map amendment from an Interchange Service Business (B-5P) zone to a Professional Office (P-1) zone, for 1.37 net (1.48 gross) acres, for property located at 2241 Buena Vista Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Professional Services (PS) future land use for the subject property. The petitioner proposes constructing a new office building and off-street parking area on the subject property for use by the Social Security Administration.

The Zoning Committee Recommended: **Approval**, for the reason provided by staff.

The Staff Recommends: **Approval**, for the following reason:

1. The requested Professional Office (P-1) zone is in agreement with the 2007 Comprehensive Plan's land use recommendation of Professional Services (PS) for the subject property. Furthermore, the requested P-1 zone is also consistent with the existing zoning in the immediate area.
 2. This recommendation is made subject to approval and certification of ZDP 2010-75: Bluegrass Executive Park, Unit 1-B, Block F, Lots 2 & 7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2010-75: BLUEGRASS EXECUTIVE PARK, UNIT 1-B, BLOCK F, LOTS 2 & 7 (1/27/11)* - located at 2241 Buena Vista Road. **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm sewers, sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Denote access widths.
8. Replace tree preservation plan with tree inventory map per Article 26-4(b) of the Zoning Ordinance.
9. Resolve proposed dumpster location.
10. Resolve the proposed changes to Lot 2 and plan limits.

Zoning Presentation: Ms. Wade presented the zoning report, briefly orienting the Commission to the location of the subject property. She stated that the subject property is surrounded by B-5P zoned properties to the east and the south, and P-1 zoned properties to the north, east, and west. Buena Vista Road runs parallel to Winchester Road, very near the I-75 interchange with US 60. Just to the south of the property, across Winchester Road, is the Hamburg commercial development, including the Lowe's and Wal-Mart stores. The subject property is located in the center of the Bluegrass Executive Business Park.

Ms. Wade stated that the subject property is currently vacant, but the petitioner is proposing to construct a two-story office building with 44,000+ square feet for occupation by the Social Security Administration offices. The Social Security Administration offices are currently located just beyond the western corner of the subject property and they would like to consolidate their facilities in Lexington-Fayette County. Ms. Wade noted that this rezoning request includes only Lot 7 of

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the business park, but the area proposed for this development is slightly larger. The Planning Commission recently reviewed a subdivision plat related to this proposed redevelopment.

Ms. Wade stated that the proposed P-1 zone is in agreement with the 2007 Comprehensive Plan recommendation of Professional Services land use at this location. The entire Bluegrass Executive Office Park shares that recommendation for Professional Services use. Ms. Wade said that the staff is recommending approval of this request, for the reason as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Taylor presented the corollary zoning development plan. He said that the subject property is proposed to have access via an easement to the adjacent professional office property, as well as two proposed driveway accesses to Buena Vista Road. The petitioner proposes to construct a 44,000+ square-foot, two-story building, and 270 parking spaces. The Subdivision Committee recommended approval of this plan, subject to the 10 conditions as listed on the agenda.

Petitioner Representation: Rory Kahly, EA Partners, and Tommy Todd, attorney, were present representing the petitioner. Mr. Kahly stated that the petitioner is in agreement with the staff's recommendations, and requested approval.

Citizen Comments: There were no citizens present to comment on this request.

Zoning Action: A motion was made by Mr. Owens, seconded by Ms. Blanton, and carried 9-0 (Beatty and Paulsen absent) to approve MAR 2010-13, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 9-0 (Beatty and Paulsen absent) to approve ZDP 2010-75, subject to the 10 conditions as listed on the agenda.

C. PUBLIC HEARING ON ZONING ORDINANCE AND LAND SUBDIVISION REGULATIONS TEXT AMENDMENT REQUEST

1. ZOTA 2010-5 & SRA 2010-4: AMENDMENTS TO ENHANCE LANDSCAPING AND STREET TREE REGULATIONS - text amendments to Articles 18 and 26 of the Zoning Ordinance and Article 6 of the Land Subdivision Regulations to enhance landscaping and street tree regulations.

REQUESTED BY: Urban County Council

PROPOSED TEXT:

Article 18: Landscape and Land Use Buffers

18-4 (d) MAINTENANCE AND INSTALLATION – ~~All landscaping materials shall be installed in a sound, workmanship like manner, and according to accepted, good construction and planting procedures. All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300), and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances No. 1-91 and No. 34-92 (Man O' War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 286-87 (Richmond Road), No. 42-98 (Downtown Street Trees), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Building Inspection, or any other future amendments to these ordinances.~~ Any landscape material which fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of or in control of the property whether as owner, lessee, tenant, occupant, or otherwise shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Section 18-4(c)(2). Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Building Inspection. When trees are removed other than as permitted above, such trees shall either be replaced with the necessary number of 2½-inch caliper trees to equal the total caliper of trees removed or with trees of the same caliper as those which were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Building Inspection. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

18-8 ENFORCEMENT – Violations of Article 18 are subject to the penalty provisions in Article 5-8 and may be enforced through the issuance of a civil citation pursuant to Article 5-9.

Article 26: Tree Protection Standards

* - Denotes date by which Commission must either approve or disapprove request.

26-1 PURPOSE – The Urban County Government recognizes the importance of trees as a vital component in counterbalancing the effects of an urban setting by providing cooling shade, by reducing noise and glare, by significant contribution to urban aesthetics, by improving air quality through carbon dioxide reduction and replenishing oxygen to the atmosphere, by improving surface drainage and reducing the effects of storm drainage flooding, by filtering non-point source pollution from area streams, by stabilizing soil thereby minimizing erosion, and providing habitat for wildlife. The purpose of this Article is to establish standards and procedures for countywide tree protection and planting in new developments and re-developments subject to review by the Planning Commission.

Land Subdivision Regulations

Article 6: Design and Improvement Standards for Major Subdivisions

6-10(b) STREET TREE PLANTINGS FOR RESIDENTIAL LOCAL AND COLLECTOR /CONNECTOR STREETS - Street plantings shall be required on all ~~new~~-collector/connector and local streets in all residential subdivisions in accordance with the following provisions:

6-10(b)(1) TYPE AND NUMBER - Trees to be planted shall be of the deciduous type, and shall be of a type of root growth pattern that minimizes potential damage to street and utility facilities. A listing of approved trees shall be included in the Planting Manual. Trees shall be required at the standard of one (1) tree per 45 feet of street frontage for large trees, 35 feet for medium trees, and 25 feet for small trees, ~~as determined by the Urban County Government Landscape Examiner.~~

6-10(b)(3) PLATTING REQUIREMENT - The cross-section to be utilized shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. The final subdivision plan shall contain a note stating that the maximum number of any one species of trees to be used is 25 or 25 percent of the total number of trees, whichever is greater. At least four (4) and no more than six (6) alternative species shall be listed on the final plat. The final plan will also indicate (by symbol) the number of trees required on each lot, based on Section 6-10(b)(1) above, and their general location. The final subdivision plan shall also contain a note stating that the street trees required herein, either within the right-of-way or designated easement, shall be maintained by the property owner in accordance with Section 6-10(b)(5) herein below. A note stating that no tree may be removed without the approval of the Urban Forester shall also appear on the final plan. A fee in the amount of ten dollars (\$10.00) per tree shown on the plat, payable to the Lexington-Fayette Urban County Government, shall be paid by the developer and collected ~~by the Division of Building Inspection~~ at the time of the recording of the final record plan.

6-10(b)(4) PLANTING - It shall be the responsibility of the developer to plant the required street trees in accordance with the Engineering Manuals ~~within one year from the date of the recording of the final record plan.~~

The Zoning Committee recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval**, for the following reasons:

1. The proposed amendments to the Zoning Ordinance and the Land Subdivision Regulations will strengthen Fayette County's regulations related to street trees and landscaping, as well as enhance the urban forest in terms of protection and planting/propagating of new trees.
2. These amendments, which are a direct result of the Tree Board's review efforts, will benefit the community in the future by reducing stormwater run-off, conserving energy, and improving the quality of life of the citizens of Fayette County.

Staff Presentation: Ms. Wade presented the staff report for this Zoning Ordinance and Subdivision Regulations text amendment request, noting that this amendment has been crafted by the LFUCG Tree Board and initiated by the Urban County Council. The Tree Board focuses on tree installation standards and the protection of all trees within Fayette County. The board members have worked for over a year to prepare the proposed text amendments, including meeting with the Council Planning Committee in September and October. The proposed changes, although minimal in appearance, should make a significant difference in how street trees are addressed in Fayette County, as well as ensuring that trees are protected not only in new development areas, but also in urban redevelopment projects.

Ms. Wade said that the first change proposed, to Article 18, would require that tree plantings adhere to a recognized national tree installation standard. It also lists the six corridor landscape ordinances that have been adopted by the Urban County Council. The third change to Article 18 would provide for enforcement of landscaping regulations by the Division of Building Inspection. The proposed change to Article 26 would add language to require consideration of tree protection standards in redevelopment projects, similar to the requirements for new development.

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With regard to the proposed changes to the Land Subdivision Regulations, Ms. Wade said that the first change involves removing the word "new" from the planting regulations in Article 6-10(b) to require tree plantings on existing streets within re-developments, rather than just on new streets. The Tree Board members believe that that proposed change could have a significant effect on the future development of our urban forest. Ms. Wade stated that the next proposed change, to Section 6-10(b)(1), would delete the reference to the "Landscape Examiner" in order to clean up the language for the Division of Building Inspection. Another proposed change would remove the Division of Building Inspection as being the designated collector of a ten-dollar administrative fee for street trees. The Division of Planning would collect that fee instead at the time of recordation of a subdivision plat. The last change proposed would remove a requirement from the Subdivision Regulations that all street trees be planted within one year of a plat being recorded. It was originally thought that one year would allow a sufficient planting "window" for trees to be planted in the spring or fall after recordation of a plat. It was discovered, however, that in many more recent instances, no houses were built within the first year of a new development. The Division of Building Inspection was not comfortable with requiring the planting of trees prior to construction of the houses, as there were no homeowners present to care for the new trees. The trees could also suffer damage from equipment during the construction of the houses. The Division of Building Inspection and the Tree Board believe that it would be more appropriate to allow tree plantings to be bonded, similar to the method for sidewalks and other public improvements. If the proposed change is approved, a developer will be able to look to the Engineering Manuals for guidance with regard to the timing of street tree plantings.

Ms. Wade stated that the staff is recommending approval of the proposed changes to the Zoning Ordinance and Land Subdivision Regulations, for the reasons as listed in the staff report and on the agenda.

Citizen Comment: There were no citizens present who wished to comment on this item.

Commission Comment: Ms. Copeland stated that the planting of street trees alone is not sufficient to help reduce stormwater runoff and maintain the tree cover in Lexington-Fayette County. She suggested that an exaction program be enacted to require that trees be replaced in parks or other shared areas, according to a square footage calculation, if any trees are removed as part of a development.

Action: A motion was made by Ms. Copeland, seconded by Mr. Owens, and carried 9-0 (Beatty and Paulsen absent) to approve ZOTA 2010-5 and SRA 2010-4, for the reasons provided by staff.

Commission Question: Mr. Holmes asked if the staff could research the possibility of instituting a tree exaction program.

Director Comments: Mr. King answered that the staff would conduct research on the feasibility of such a program. He noted that some such research had been conducted when the Urban Forestry program was initially set up and was under the control of the Division of Planning. In addition to creating the Tree Ordinance (Article 26 of the Zoning Ordinance), which requires tree canopy coverage, the staff looked at other programs, because the early assessment of LFUCG's first two Urban Foresters was that our urban forest was very ill. The staff considered a number of programs that had been successful in other areas, most of which involved a tax levy of a certain amount per linear foot of street frontage, which would then fund the operation to plant, manage, and maintain the urban forest. Mr. King stated that one of Lexington-Fayette County's biggest problems is that there is no overall maintenance program for trees. He said that there are many different approaches to consider, and noted that the Tree Board has considered such a program as well. Mr. King added that any such action would ultimately require the approval of the Urban County Council.

VI. COMMISSION ITEMS

A. PFR 2010-6: CLAYS MILL ELEMENTARY SCHOOL – a Public Facilities Review of changes (expansion and remodel) of Clays Mill Elementary School, located at 2319 Clays Mill Road.

Staff Presentation: Ms. Rackers presented the staff report, briefly orienting the Commission to the location of the subject property on Clays Mill Road near its intersection with Cardinal Lane. She stated that Southland Park, Lexington Catholic High School, and Mary Queen of the Holy Rosary School and Church are located near the subject property. All of the adjacent properties are zoned R-1C. The property is 19.43 acres in size, with an existing permanent structure that is approximately 70,000 square feet in size. There are also nine portable classrooms on site behind the permanent building. Ms. Rackers displayed a site plan on the overhead projector, noting the proposed layout of the property.

Ms. Rackers stated that Fayette County Public Schools (FCPS) proposes to add 20,000 square feet of buildable area to the existing building, and demolish approximately 5,700 square feet. The completed building is proposed to be around 84,000 square feet in size. The existing access to the property from Clays Mill Road is proposed to be maintained, but FCPS proposes to add seven parking spaces and a pick-up/drop-off loop to the existing parking area.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends Public Education land use for the subject property, which reflects its historic use as an elementary school. Public Education land use is described as, "all public school facilities, including the central office, and all the accessory facilities for the public elementary, middle, and high schools." Five Goals and 13

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Objectives are in support of the proposed addition, as is the text of the Comprehensive Plan. The staff is not aware of any public opposition to this request at this time. The physical condition of several schools is specifically mentioned in the Comprehensive Plan, and Clays Mill Elementary School was included in that list. Schools that were in "poor to fair" condition were a higher priority for renovation, and all the schools on that list have had Public Facility Reviews submitted to the Planning Commission. Most of those renovation projects have been completed, and others are nearing completion. The schools that were listed in "fair" condition are now being brought up to the standards set forth by FCPS, including Clays Mill Elementary. Ms. Rackers noted that Breckinridge, Mary Todd, Cardinal Valley, and Millcreek Elementary Schools are also proposed for Public Facility Reviews in the early part of 2011.

Ms. Rackers stated that FCPS is proposing a complete renovation of the school. The new portion of the building is proposed to contain classrooms, the library, and administrative office space. The cafeteria, kitchen, gymnasium, and some classrooms are proposed to be renovated. All of the systems in the building are proposed to be completely renovated, and the school will be completely ADA compliant upon completion of the renovation. FCPS also proposes to resurface the parking area and add new walkways and playground areas. The proposed new service loop and parking spaces will be constructed of permeable pavers, which will help ensure compliance with the Green Infrastructure portion of the Comprehensive Plan.

With regard to the Comprehensive Plan text, Ms. Rackers said that one of the chief concerns of FCPS is to supply, "safe comfortable, and aesthetically pleasing state-of-the-art facilities for students," and one of their goals is to become a world-class public school system by 2020.

Ms. Rackers noted that there is a history of stormwater problems in the vicinity of the subject property, due to the location of a nearby floodplain area and the less-than-adequate storm sewer system in the area. There is no designated FEMA floodplain area any nearer than one-half mile from the property, but the staff is recommending that FCPS use Best Management Practices in order to prevent the exacerbation of the existing problems in the area. Ms. Rackers noted that the school system is exempt from zoning regulations; however, in the interest of public health, safety, and welfare, the staff is recommending that FCPS provide a plan for storm drainage and retention to the Division of Engineering, and that that plan be accepted by Engineering.

Ms. Rackers stated that the staff found this request to be in compliance with the recommendations of the Comprehensive Plan, and is recommending approval, subject to the following recommendations:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction/remodeling of the school and grounds; and that a plan for storm water management be submitted to, and accepted by, the Division of Engineering prior to issuance of any permits for construction.
2. The portable classrooms present on the property shall be removed at the termination of construction, as noted on the site plan.

Commission Questions: Ms. Roche-Phillips asked if the temporary classrooms are currently in use, or if they were brought in to accommodate the students during the renovation. Tony Thomas, architect, answered that there are currently two portable classrooms on the site, and six more will be brought in to help with the phasing of the construction. All of the portable facilities will be removed at the end of construction.

Ms. Roche-Phillips asked if any additional connectivity to the adjoining neighborhood will be provided as part of the construction process. Mr. Thomas responded that there is currently a path to the property through Southland Park, but FCPS is not developing that connection at this time. He noted that there is a grant project currently underway to renovate the rear portion of the park, including the construction of bio-swales and some footpaths and bridges, but that project is outside of the scope of the school renovation.

Action: A motion was made by Mr. Brewer, seconded by Mr. Owens, and carried 9-0 (Beatty and Paulsen absent) to approve PFR 2010-6, subject to the two recommendations as included in the staff report.

- B. AMENDMENT TO THE OFFICIAL MEETING & FILING SCHEDULE FOR 2011** – Mr. Saltee referred to the previously distributed copies of the proposed amendment to the "Official Meeting and Filing Schedule for 2011," which the Planning Commission adopted in November. The staff is proposing that a new filing deadline be created for amendments to ND-1 overlay applications. No such applications have been submitted since the creation of this application process, but the staff is proposing this new deadline to restore the deadline originally contemplated for the process just over a year ago. When the filing deadlines were changed to accommodate greater time for Technical Committee review of most plans, this corresponding change was not made in accordance. Mr. Saltee noted that these applications will still go before the Zoning Committee and be reviewed by the staff just like any other type of application.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Holmes, and carried 9-0 (Beatty and Paulsen absent) to amend the Official Meeting and Filing Schedule for 2011 as presented.

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VI. **STAFF ITEMS** – No such items were presented.

VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR JANUARY, 2011**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 6, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	January 6, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 13, 2011
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 20, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 26, 2011
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 27, 2011

X. **ADJOURNMENT** – There being no further business, Chairwoman Richardson declared the meeting adjourned at 2:37 p.m.

TLW/TM/BJR/BS/src

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